

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

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|---------------------------|---|-----------------------------|
| United States of America, |) | Case No. 15-CR-49 (MJD/FLN) |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | St. Paul, Minnesota |
| |) | February 9, 2015 |
| Hamza Naj Ahmed, |) | 10:27 a.m. |
| |) | |
| Defendant. |) | |
| |) | |

BEFORE **THE HONORABLE STEVEN E. RAU**
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

DETENTION HEARING

APPEARANCES:

For the Plaintiff: United States Attorney's Office
ANDREW R. WINTER, AUSA
JOHN F. DOCHERTY, AUSA
300 South 4th Street
Suite 600
Minneapolis, Minnesota 55415

For the Defendant: Murray Law LLC
JANEANNE MURRAY, ESQ.
220 South 6th Street
Suite 1225
Minneapolis, Minnesota 55402

(DEFENDANT PRESENT.)

DIGITAL RECORDING TRANSCRIBED BY:

Official Court Reporter: JEANNE M. ANDERSON, RMR-RPR
Suite 146 U.S. Courthouse
316 North Robert Street
St. Paul, Minnesota 55101

P R O C E E D I N G S

IN OPEN COURT

THE COURT: Good morning, everyone. We are here for a preliminary hearing and detention hearing on the matter entitled United States of America versus Hamza Ahmed, Case No. 15-mj-95.

Would counsel note their appearances starting with the Government?

MR. WINTER: Good morning, Your Honor. Andrew Winter and John Docherty appearing on behalf of the United States.

THE COURT: Good morning, gentlemen.

MS. MURRAY: Good morning, Your Honor, JaneAnne Murray for Mr. Ahmed.

THE COURT: I'm sorry, Jane --

MS. MURRAY: JaneAnne Murray.

THE COURT: M-u-r-r-a-y?

MS. MURRAY: Correct.

THE COURT: Okay. The first matter is, Ms. Murray, are you continuing to contest probable cause?

MS. MURRAY: No, Your Honor.

THE COURT: You are waiving the probable cause hearing?

MS. MURRAY: Correct.

THE COURT: Okay. Mr. Winter and Mr. Docherty,

1 what is the Government's position with respect to its Motion
2 For Detention?

3 MR. WINTER: Well, Your Honor, the Government
4 persists in its Motion For Detention in this case. If the
5 Court wants to hear formal argument, I am prepared to do
6 that. But, obviously, we are going to rely on the rather
7 detailed Pretrial Services Report that has been prepared.
8 And I am certainly going to answer any questions the Court
9 might have.

10 THE COURT: I have also read that, as well, Mr.
11 Winter. And it would be my understanding that your
12 principal argument here relates to both a risk of flight, as
13 well as safety to the community.

14 And it is the Government's position that given
15 some of the tweets that Mr. Ahmed has tweeted, that Mr.
16 Ahmed is willing to martyr himself; and that therefore, that
17 creates a danger to the community.

18 MR. WINTER: That is exactly correct, Your Honor.
19 And that, obviously, in conjunction with his actual attempt
20 to travel overseas, erasing the phone contacts, indicating
21 he would not need them overseas, all done surreptitiously
22 without his parents' knowledge. All of these facts together
23 suggest that the circumstances surrounding the case are
24 extraordinarily serious and represent, extraordinarily, a
25 potential for danger. And that is what is required.

1 And also, the risk of flight for those same
2 reasons, he presents a significant risk of flight. He did
3 all of those things quite capably and got as far as being on
4 an airplane and was stopped. So, for all of those reasons
5 we feel both prongs are satisfied, Your Honor.

6 THE COURT: Thank you, Mr. Winter. Ms. Murray,
7 will you be calling any witnesses, ma'am?

8 MS. MURRAY: Not at this time, Your Honor.

9 Your Honor, first of all, I want to point out that
10 this is not a presumption case. Mr. Ahmed is charged with
11 making a false statement to a federal agent. There would be
12 a presumption of release, typically, in a case like this.

13 He has strong community support here represented
14 by several people in the audience, and most significantly
15 his mother and his father, both of whom are long-time
16 residents of Minnesota, came here twenty years ago.

17 I think the suggestion in the Pretrial Services
18 Report that somehow my client has ties outside of the United
19 States are -- is a really tenuous and speculative
20 suggestion.

21 His parents are indeed from Somalia and Ethiopia,
22 but they are naturalized U.S. citizens living here in
23 Minnesota for twenty years. His mother, Fathia, works at
24 Sam's Club, in bakery. And she has been working at Sam's
25 Club for about 12 years with a small hiatus, recently. And

1 she makes approximately \$15,000 a year.

2 His father, Naji Abraham works for an express
3 delivery company that delivers medical supplies to a nursing
4 home. He makes \$36,000 a year. Neither of them have ever
5 been in trouble with the criminal justice system before, and
6 they are both here willing to sign a bond on their son's
7 behalf.

8 Mr. Ahmed, himself, has also significant ties to
9 the United States. He is a United States citizen and he is
10 enrolled in nursing college at MCTC right now where he was
11 attending classes.

12 And significantly, Your Honor, he was detained in
13 November and removed from the plane at JFK, questioned
14 thereafter, put on a Greyhound bus, and questioned when he
15 arrived back in Minnesota after that Greyhound trip, and
16 questioned several times since then by the FBI.

17 And in each of these encounters, Your Honor, he
18 has not ended up fleeing the country, well aware that the
19 FBI and the Government was now interested in him, and the
20 nature of their interest.

21 The FBI has also questioned his mother, his
22 father. So, it's not like he wasn't aware that there was a
23 serious government interest in him, and yet he did not flee.
24 I think that is one of the most significant statements,
25 here, about his lack of a risk of flight.

1 With respect to the danger to the community, Your
2 Honor, I would submit to you that relying solely on
3 statements put out on social media, statements that are
4 often driven by hubris and do not necessarily represent a
5 true intent to follow through on the statements made, that
6 that should not be the basis here of a finding of danger to
7 the community.

8 He certainly has not been a danger to the
9 community since November when he was removed from a plane at
10 JFK. He is enrolled in a college. His family is here. And
11 I would also like to point out the significant community
12 support that is here.

13 In particular, Mohamud Noor, Executive Director of
14 the Confederation of Somali Communities, and a former Board
15 member of the Minneapolis Public Schools, he is present and
16 willing to put his support and credibility behind the family
17 and behind Mr. Ahmed to ensure that Mr. Ahmed will not be
18 either a risk of flight or a danger to the community.

19 Mr. Ahmed could be released into his family's
20 custody with electronic monitoring, Your Honor, and with
21 strict requirements to attend his classes and other strict
22 requirements to be added to his -- the circumstances of his
23 release to ensure that this young man is not a threat to the
24 community here or the United States, and -- nor a risk of
25 flight.

1 Other individuals in the audience include an
2 individual who is responsible for adult education of the
3 East African Community for the Minneapolis Public School
4 System. And, Your Honor, the mosque, the elder from the
5 mosque at the Minneapolis Mosque at Cedar-Riverside, Daru
6 Gobu (PH), is also here, the mosque that my client and his
7 family have attended. And he is also here on behalf of the
8 family and on behalf of Mr. Ahmed.

9 And there are several other individuals in the
10 audience, family, friends, and friends of the Somali
11 community who are here. So, I think that while the
12 Government's allegations are obviously serious, and I don't
13 wish to diminish them, I think that the concerns going
14 forward as to whether Mr. Ahmed is a risk of flight or a
15 threat to the community can be significantly allayed by
16 stringent bail conditions. Thank you.

17 THE COURT: Thank you. Mr. Winter I have a couple
18 of questions for you, sir.

19 MR. WINTER: Yes, Your Honor.

20 THE COURT: Mr. Winter, this is not a rebuttable
21 presumption case. However, it is the Court's recollection,
22 and maybe you can help me here, that the offense that Mr.
23 Ahmed is charged with, making a false statement, while it is
24 not a rebuttable presumption, there are some exceptions with
25 respect to that when it deals with potential terrorism; is

1 that correct?

2 MR. WINTER: I don't think it -- it doesn't change
3 the presumption --

4 THE COURT: It doesn't change the presumption,
5 but --

6 MR. WINTER: But, what there is is an increased
7 statutory maximum penalty.

8 THE COURT: Correct. And what is that statutory
9 maximum?

10 MR. WINTER: In the case of terrorism, which the
11 Defendant was informed it was, it's an 8-year statutory
12 maximum, rather than a 5-year. So, he faces significantly a
13 longer prison term as a result of the nature of the
14 allegation.

15 THE COURT: Correct. And under the Bail Reform
16 Act, I am to consider the nature and the circumstances of
17 the offense charged, including whether the offense is a
18 crime of violence or an offense listed where there is a
19 certain maximum term. But, that is 19 years or more.

20 Okay. Is there anything else you want to advise
21 me of?

22 MR. WINTER: Yes, I --

23 THE COURT: Because as you know, the Court -- I am
24 quite troubled by the youth of the Defendant in this case.
25 And the community support gives the Court some degree of

1 solace, but not a lot, given what I have read.

2 MR. WINTER: And I understand the Court's
3 concerns. And I would like to just briefly respond to a few
4 of the points made by defense counsel.

5 First of all, in reference to the community and
6 for the parents, they were all in place at the time the
7 Defendant set out on this trip. And as the tweets indicate,
8 Your Honor, this was something that he was thinking about
9 doing, we know from the tweets, since at least March. He
10 talked about the difficulty of patience. And so this is an
11 individual who is thinking about committing a crime. And he
12 waits and he waits and he waits. And he waits for his right
13 moment, and then he does it.

14 That kind of lack of impulsivity, I think, bodes
15 poorly for somebody who is going to be released, because --
16 and it also responds in part to this argument that he hasn't
17 done anything bad since he was turned around at JFK
18 International.

19 This is a patient young man who is prepared to die
20 for the cause, according to his own words. So, this
21 affinity for ISIS, his willingness and his ability to
22 coordinate his travel with three other individuals and then
23 repeatedly lie to the FBI, all of that suggests that the
24 pieces that defense suggests, put in place to assure the
25 Court, is just not enough.

1 It is too risky of a situation to rely on that.
2 And that detention is for now the only answer for this young
3 man.

4 THE COURT: Thank you.

5 Mr. Ahmed, given what I have read in the bail
6 report, I am going to order that you be detained. I find
7 that there is no condition or combination of conditions that
8 would ensure that you would appear for court and that would
9 ensure the public's safety.

10 The tweets that you issued were beyond hubris.
11 They were beyond youth. They were threats. As a result,
12 you shall remain detained pending this matter being bound
13 over to the Grand Jury.

14 Is there anything further?

15 MR. WINTER: No thank you. Nothing from the
16 Government, Your Honor.

17 THE COURT: We are now in recess.

18 (Adjournment.)
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2 CERTIFICATE
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5 The foregoing transcript is a
6 transcription of the digital audio recording that was
7 produced in the above matter by Court staff and later
8 submitted to myself, Jeanne M. Anderson, for transcription.
9 An official court reporter was not present to produce a
10 stenographic and verbatim record of the aforementioned
11 proceeding at the time and place specified herein.
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15 Certified by: s/ Jeanne M. Anderson

16 Jeanne M. Anderson, RMR-RPR
17 Official Court Reporter
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